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30 CADWELL INDUSTRIES, INC.

31 UNITED STATES DISTRICT COURT  
32 SOUTHERN DISTRICT OF CALIFORNIA

33 NUVASIVE, INC.,

34 Case No. 12CV3065-JLS-JMA

35 Plaintiff,

36 **JOINT MOTION TO STAY**  
37 **LITIGATION**

38 v.

39 CADWELL INDUSTRIES, INC.,

40 **DEMAND FOR JURY TRIAL**

41 Defendant.

1 CADWELL INDUSTRIES, INC.,  
2 Counterclaimant  
3  
4 v.  
5

6 NUVASIVE, INC.,  
7 Counterclaim  
8 Defendant.  
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10 Plaintiff and Counterclaim Defendant NuVasive, Inc. and Defendant and  
11 Counterclaimant Cadwell Industries, Inc. hereby jointly move for a stay of this  
12 litigation until February 15, 2014, to allow the parties to finalize a settlement of the  
13 action.

14 The parties have engaged in extended discussions regarding a potential  
15 resolution of this litigation since the Early Neutral Evaluation held on May 20,  
16 2013. As a result of those discussions, the parties have now reached agreement in  
17 principle, and have signed a term sheet covering the significant terms of the  
18 settlement. The parties therefore request a stay of the litigation until February 15,  
19 2014, to allow the parties to document the final settlement agreement, while not  
20 unnecessarily burdening the Court or the parties with litigation activities during that  
period.

21 In the unlikely event that the parties are not able to finalize the settlement,  
22 and continued litigation becomes necessary, the parties will seek a status  
23 conference before the Court to reset the case schedule. In that event, the parties  
24 anticipate that there need be only a minimal adjustment of the existing case  
25 schedule in order to prepare the case for trial in a timely manner.

26 Accordingly, the parties respectfully request that the Court stay the instant  
27 litigation until February 15, 2014.

1  
2 Dated: November 14, 2013

MORRISON & FOERSTER LLP

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4 By: /s/ Eric M. Acker  
Eric M. Acker

5  
6 Attorneys for Plaintiff and  
7 Counterclaim Defendant  
8 NUVASIVE, INC.

9 Dated: November 14, 2013

10 ROPES & GRAY LLP

11 By: /s/ Bradford J. Badke (by permission)  
12 Bradford J. Badke

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14 Attorneys for Defendant  
15 and Counterclaimant  
16 CADWELL INDUSTRIES, INC.

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 14, 2013, a true and correct copy of the foregoing was transmitted electronically to the Electronic Filing System of the United States District Court for the Southern District of California which, under Local Civil Rule 5.4(b)&(c), is believed to have sent notice of such filing, constituting service of the filed document, on all Filing Users, all of whom are believed to have consented to electronic service.

Executed on November 14, 2013, at San Diego, California.

/s/ Eric M. Acker  
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